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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,874

08/26/2003

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50905/DBP/N194

6387

23363 7590 08/06/2008
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EXAMINER

FLETCHER, MARLON T

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/649,874	Applicant(s) KATSUTA, MASANORI	
	Examiner Marlon T. Fletcher	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,4,8-10,17,18,36,37,42 and 43 is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,11-16,32-35 and 38-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/21/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 5-7, 11-16, 32-35, and 38-41, are rejected under 35 U.S.C. 102(e) as being anticipated by Sitrick (7,157,638).

Sitrick discloses a musical performance self-training apparatus for supporting a player by displaying a performance instruction information on a display means, wherein the display means is further adapted to display music to be performed that is divided into plural units, each unit including a predetermined size of musical tone information of the music to be performed (Abstract), the apparatus comprising: a unit designating means (715) for designating a unit from the plural units (105) (column 17, lines 15-24), the units (105) constitute a music to be performed and each unit includes a predetermined size of musical tone information, and a performance instruction information generating means for generating the performance instruction information based on the musical tone information of the unit which is designated by the unit designating means (column 17, lines 25-43).

Sitrick discloses the musical performance self-training apparatus, further comprises a lesson menu generating means for generating an image information of a lesson menu which has a score of the music to be played and the units corresponding to the score, then output the image information to the display means, wherein the unit designating means designates a unit automatically, which unit corresponding to the score of the performance instruction information to be displayed next (column 19, lines 3-6, 16-24; column 19, line 63 – column 20, line 7; and column 26, line 26 – column 27, line 41).

Sitrick discloses wherein units having the same content are managed collectively as the same unit (column 26, line 26 – column 27, line 41).

Sitrick discloses an automatic and manual mode (column 10, lines 5-19), which allows control over the progress of the lesson distribution.

Sitrick discloses a musical performance judgment apparatus for evaluating musical performance (figures 2 and 13), wherein the judgment apparatus further comprising a performance result storage means for storing information relating to performance timing as a result of musical performance (column 25, lines 14-17); a judgment means (282/figure 2; and 1320,1330/figure 13) for comparing the information relating to the performance timing with the information relating to the performance timing included in the performance instruction and detecting the difference between these ; and an evaluation means (284,286/figure 2) for evaluating the performance, corresponding to the difference detected by the judgment means (column 11, lines 20-51; and column 25, lines 6-31).

Sitrick discloses the musical performance self-training apparatus, wherein a plurality of items are stored in the performance result storage means for each played note, as the information relating to the performance timing, and the evaluation means extracts the items evaluated best of the plurality of items with respect to all played notes, to evaluate the musical performance according to the mean value thereof (column 11, lines 20-43).

Sitrick discloses the musical performance self-training apparatus, wherein the information relating to the performance timing includes key-on time, key-off time, gate time and step time (column 20, lines 1-7; and column 21, lines 19-39).

Sitrick discloses the musical performance self-training apparatus, wherein the information relating to the performance timing further includes a value of ratio between the actual performance time and the performance time instructed by the performance instruction (column 11, lines 20-32).

Allowable Subject Matter

3. Claims 3, 4, 8-10, 17-18, 36-37, 42, and 43 are allowed.

Response to Arguments

4. Applicant's arguments filed 04/21/2008 have been fully considered but they are not persuasive.

The applicant argues against the Sitrick reference. However, it is the examiner's position that the rejected claims were met by Sitrick. The applicant has made

amendments to the claims, wherein the amendments are to some claims are mostly provided in the preamble. The preamble is given little weight and weight is mostly given to the body of the claims. The claims are still somewhat broad, even after the amendments. However, some amendments have placed claims in condition for allowance. These claims are indicated above. The abstract clearly points out the ability to have the music displays to be divided into plural units for musical display, each unit including a predetermined size of musical tone information of the music to be performed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T. Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MTF
08/02/2008

/Marlon T Fletcher/
Primary Examiner, Art Unit 2837